

74. The passive safety mechanism of claim 73 wherein said blocking means acts directly upon a sear catch of said firing element.

75. The passive safety mechanism of claim 73 wherein said blocking means is substantially the same transverse width as said recess.

76. The passive safety mechanism of claim 73 wherein a detachable backstrap provides alignment to said blocking means.

77. The passive safety mechanism of claim 73 wherein a positive stop means limits the maximum downward position of said blocking means.

78. The passive safety mechanism of claim 77 wherein said positive stop means is a mandrel for a torsion spring.

79. In a firearm having a sear, a trigger, a triggerbar, and a firing element; a passive safety mechanism comprising:

- a. a blocking means to block said firing element; and
- b. a slid able connecting means which connects said triggerbar and said blocking means to said trigger.

80. The passive safety mechanism of claim 79 wherein said connecting means is a slid able link.

### Remarks

Applicant respectfully requests reconsideration of the finality of the rejection of the last Office action. The following is a quotation from MPEP 706.07(b) upon which Applicant bases this request.

It would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because new issues were raised that required further consideration and/or search.

The situation quoted above is directly applicable. The Advisory Action regarding the parent application that was mailed 1999 May 28 refused to enter the proposed amendments because "They raise new issues that would require further consideration and/or search." This same amendment, without alteration or revision, was entered under Rule 116 in the continuing application now pending.

The finality of the rejection of the last Office action appears to be in direct contravention of MPEP 706.07(b). Therefore, Applicant respectfully requests withdrawal of the finality of the rejection.

In further support of the above request, as suggested in phone consultation with the Examiner on 2000 February 2, Applicant has listed the following references cited against the claims in the last Office action which were not part of the case in any way until their emergence in the last Office action. Mennéking is a new reference and forms the sole basis of rejection for claims 41-49, 50, and 52. Floyd and Oberhammer are both new references which are used to support an old reference. Kidd is a new reference and is cited in view of new references Wild et al, Koehler, Floyd and old references Gaidos and Pons et al.

The above claims are being submitted as part of the continuation application. These claims are submitted to be patentable over the art of record in the parent cases for the following reasons.

### **Khoury Shows No Longitudinally Slidable Firing Element**

The last O.A. rejected independent claims 41, 48, and 53 on Khoury under Section 102(b). Claims 41, 48 and 53 have been rewritten as new claims 61, 68, and 73 to more clearly define patentably over this reference. Applicant requests reconsideration of this rejection, as now applicable to claims 61, 68, and 73 for the following reasons.

- (1) Claims 61, 68, and 73 state that the firing element is "longitudinally slidable." This language distinguishes over Khoury under Section 102 because the hammer (26) of Khoury is not longitudinally slidable. Although Khoury shows a longitudinally slidable firing pin (18), the rejection depended upon interpreting hammer (26) as the firing element.
- (2) With regard to claim 48, now claim 68, Khoury does not show connecting means which connect blocking means to a trigger.
- (3) With regard to claim 53, now claim 73, Khoury does not show blocking means located within a frame recess.

### **The Rejection of Dependent Claims 43, 46-47, 54-55, and 57 On Khoury Is Overcome**

Dependent claims 43, 46-47, 54-55, and 57 were rejected on Khoury under Section 102(b). These claims have been renumbered as claims 63, 66-67, 74-75, and 77. Applicant requests reconsideration of this rejection, as now applicable to the renumbered claims for the following reasons.

- (1) The independent claims upon which these claims are dependent have been rewritten to more clearly define patentably over this reference.

- *✓* (2) With regard to claim 43, now claim 63, the reference cited does not show blocking means which provides alignment to a triggerbar.
- *✓* *Khouri* (3) With regard to claim 46, now claim 66, the reference cited does not show a firearm in which normal operation is precluded when the blocking means is removed.
- *✓* (4) With regard to claim 47, now claim 67, the reference cited does not show a firearm in which normal operation is precluded when the connecting means is removed.
- *✓* (5) With regard to claim 54, now claim 74, the reference cited does not show blocking means which act directly upon a sear catch of a firing element.

### **Unobvious: Floyd and Oberhammer Do Not Show Detachable Backstraps**

Dependent claim 56 was rejected on Khouri in view of Floyd or Oberhammer under Section 103(a). This claim has been renumbered as claim 76. Applicant requests reconsideration of this rejection, as now applicable to the renumbered claim for the following reasons.

- (1) The independent claim upon which this claim is dependent has been rewritten to more clearly define patentably over Khouri. As now written, Khouri does not show blocking means located within a frame recess.
- (2) Adding Floyd or Oberhammer to Khouri would not result in the claimed structure or render it obvious. Floyd does not show a detachable backstrap. Instead, a grip safety is disclosed. Oberhammer shows a breakaway view; however, a detachable backstrap is not shown.
- (3) The invention provides new and unexpected results. The detachable backstrap does more than merely provide easy access to internal components. The detachable backstrap also aligns the blocking means and provides a bearing surface for the blocking means to slide upon during blocking and unblocking. The detachable backstrap also eliminates the need for a sideplate or open sided frame and thereby facilitates a dramatic increase in frame strength.

### **Menneking Shows No Longitudinally Slidable Firing Element**

The last O.A. rejected independent claims 41 and 48 on Menneking under Section 102(b). Claims 41 and 48 have been rewritten as new claims 61 and 68 to more clearly define patentably over this reference. Applicant requests reconsideration of this rejection, as now applicable to claims 61 and 68 for the following reason.

- (1) Claims 61 and 68 state that the firing element is "longitudinally slid able." This language distinguishes over Menneking under Section 102 because this reference does

not show a longitudinally slidable firing element. Instead of a longitudinally slidable firing element, a pivoting hammer is shown.

**The Rejection of Dependent Claims 41-47, 49-50, and 52 On Menneking Is Overcome**

Dependent claims 41-47, 49-50, and 52 were rejected on Menneking under Section 102(b). These claims have been renumbered as claims 61-67, 69-70, and 72. Applicant requests reconsideration of this rejection, as now applicable to the renumbered claims for the following reason.

- (1) The independent claims upon which these claims are dependent have been rewritten to more clearly define patentably over this reference.

**The Rejection of Claims 59-60**

Claims 59-60 were rejected under Section 103(a). These claims have been cancelled.

**Compliance with Examiner's Instructions**

Claim 51 was objected to as being dependent upon a rejected base claim. Independent claim 79 and dependent claim 80 have been written to recite the essential structure of claim 51.

**Non-Applied References Do Not Show The Invention**

Applicant has reviewed the non-applied references. These references do not show the invention or render it obvious.

**Conclusion**

For all the above reasons, applicant submits that the specification and claims are now in proper form and that the claims all define patentably over the prior art. Therefore, applicant submits that this application is now in condition for allowance, which action is respectfully requested.

**Conditional Request for Constructive Assistance**

If for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. 706.03 (d) and 707.07 (j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,



Applicant: Daniel L. Chapman

P.O. Box 710316  
Santee, CA 92072-0316  
(619) 448-5510

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Daniel L. Chapman, Inventor